

FILED  
JUN 11 2011  
USDC-ORE

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
EUGENE DIVISION

GARY and SHERRILL ELLIS,

10-6319-TC

Plaintiffs,

FINDINGS AND RECOMMENDATION

v.

GMAC MORTGAGE, INC. and  
MORTGAGE ELECTRONIC  
REGISTRATION SYSTEMS.,

Defendants.

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COFFIN, Magistrate Judge:

Plaintiffs filed this complaint in response to foreclosure proceeding initiated by defendant.

By Amended Order and Findings and Recommendation filed on March 16, 2011 (#20), I recommended dismissal of one of plaintiff's claims, but ordered that the remaining claims be dismissed with leave to amend within thirty days. I warned plaintiff that failure to file an amended complaint could result in dismissal of this action.

Plaintiffs did not file an amended complaint within the thirty day deadline. Defendants subsequently filed a motion (#23) to dismiss this action with prejudice and to dissolve the

preliminary injunction entered in this matter on January 13, 2011. (#11). Plaintiff did not file a response to defendants' motion to dismiss.

**Findings and Recommendation**

As plaintiffs have failed to file either an amended complaint or response to the motion to dismiss and have failed to communicate with the court in any way about this case, I recommend that this action be dismissed for failure to prosecute.

The above Findings and Recommendation will be referred to a United States District Judge for review. Objections, if any, are due no later than fourteen days after the date this order is filed. The parties are advised that the failure to file objections within the specified time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991). If no objections are filed, review of the Findings and Recommendation will go under advisement on that date. If objections are filed, any party may file a response within fourteen days after the date the objections are filed. Review of the Findings and Recommendation will go under advisement when the response is due or filed, whichever date is earlier.

DATED this 6<sup>th</sup> day of June 2011.



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THOMAS M. COFFIN  
United States Magistrate Judge